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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/711,138	11/14/2000	Yasushi Iida	063993/0108	7019

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Foley & Lardner
Washington Harbour
Suite 500
3000 K Street N W
Washington, DC 20007-5109

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/711,138

Applicant(s)

IIDA ET AL.

Examiner

Stephen J. Castellano

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 24, 25, 29-31, 34-36 and 40-57 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4, 10-13, 24, 25, 29-31, 36 and 41-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-9, 34, 35 and 40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3727

Claims 3, 4, 10-13, 24, 25, 29-31, 36 and 41-57 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, 5, 6 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Hlebovy.

Fiber reinforced plastics having reinforcing fibers and made by conventional filament winding techniques inherently have strength of a magnitude of 35 GPa or more in tensile modulus and 1.5% to 2.0% or more in tensile breaking strain.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3727

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hlebovy.

Hlebovy discloses the invention except for the tensile modulus and tensile breaking strain limitations. Official notice is taken that fiber reinforced plastics of 35 GPa or more tensile modulus and 2.0% or more tensile breaking strain are well known. It would have been obvious to modify the fiber reinforced plastic outer shell to include a fiber reinforced plastic of 35 GPa or more tensile modulus and 2.0% or more tensile breaking strain in order to provide a stronger outer shell which will resist bursting or rupture due to high internal pressures within the vessel.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hlebovy in view of Tamura et al. (Tamura).

Hlebovy discloses the invention except for specifying that the fibers in the outer layer are carbon. Tamura teaches carbon fibers for reinforcing plastic. Carbon fibers yarns of 4.5-5.5 GPa or more in strand tensile strength and 2.0% or more in strand tensile breaking strain are inherent. Carbon fiber yarns of 0.30 or less in oxygen ratio at surface and 0.02 or more in nitrogen at surface are inherent.

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hlebovy in view of Forsman.

Hlebovy discloses the invention except for the innermost layer of the shoulder portion of the outer shell comprises a layer with hoop-wound reinforcing fibers in a filament winding.

Art Unit: 3727

Forsman teaches innermost layer 20a and 20b of the shoulder portion of the outer shell comprises a layer with hoop-wound reinforcing fibers in a filament winding. It would have been obvious to provide the outer shell with an inner layer of hoop-wound reinforcing fibers in a filament winding in order to increase the hoop strength at the cylindrical wall to domed or end wall transition of the pressure vessel to avoid a rupture at the cylindrical wall to end wall juncture.

Note that for each rejection using Hlebovy or Tamura, that the April 24, 1997 and April 14, 1997 respective filing dates precede the November 20, 1997 filing date of the national stage application but not the December 4, 1995 filing date of PCT/JP95/02472. Applicant must perfect the foreign language priority of PCT/JP95/02472 by submitting a certified English language translation of PCT/JP95/02472 in order to define over rejections applying Hlebovy and Tamura.

Applicant's arguments filed September 20, 2002 have been fully considered but they are not persuasive. Applicant's statement that Hlebovy and Tamura are not available as prior art are not well taken because applicant has not perfected the Japanese language document relied upon for priority.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


Art Unit: 3727

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc
November 18, 2002